

07 NOV 2000



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Julian H. Cohen
LADAS & PERRY
26 West 61st Street
New York, New York 10023

In re Application of
LAZAREV, et al.
U.S. Application No. 09/485,329
PCT No.: PCT/RU98/00251
Int. Filing Date: 03 August 1998
Priority Date: 11 August 1997
Attorney Docket No.: U 012599-9
For: DICHROIC POLARIZER

DECISION ON PETITION
UNDER 37 CFR 1.47(a)

This is a decision on applicant's "PETITION FILED UNDER 37 CFR 1.47(a)" filed 17 May 2000 to accept the application without the signature of joint inventors, Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko and Sergei Vasilievich Belyaev. The required petition fee of \$65.00 (37 CFR 1.17(i)) has been submitted.

BACKGROUND

On 03 August 1998, applicant filed international application no. PCT/RU98/00251 which claimed a priority date of 11 August 1997 and which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 February 1999. A Demand for international preliminary examination was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States at midnight on 11 February 2000.

On 07 February 2000, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; a translation of the international application; and a preliminary amendment.

On 29 February, applicant filed a Statement Claiming Small Entity Status.

On 17 April 2000, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a one-month time limit in which to respond.

On 17 May 2000 applicant filed a petition under 37 CFR 1.47(a) and required fee; a declaration and power of attorney executed by joint inventor, Pavel Ivanovich Lazarev on his own behalf and behalf of the non-signing joint inventors, Alexandr Alexandrovich Miroshin, Nicolai Vladimirovich Malimonenko

and Sergei Vasilievich Belyaev.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and behalf of the non-signing joint inventor. Items (1) and (4) have been satisfied.

A review of the present petition reveals that applicant has not satisfied item (2) above, in that the applicant has not set forth an allegation that the nonsigning inventors cannot be reached or refused to sign much less any documentary evidence to support such an allegation. (See Manual of Patent Examining Procedure §409.03(d).

Regarding item (3) above, a clear statement of the last known address of the non-signing inventors must be provided. See M.P.E.P. 409.03(e).

CONCLUSION

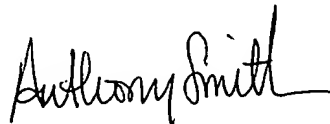
The petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTH** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extension of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention to the PCT Legal Office.



Richard Cole
PCT Legal Examiner
PCT Legal Office



Anthony Smith
Petitions Attorney
PCT Legal Office
Tel: 703-308-6314
Facsimile: 703-308-6459